IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Criminal Appeal No. 622-DB of 1997

Date of Decision :- February 6, 2007

Pardeep Singh and another ....APPELLANTS

VERSUS

The State of Punjab ....RESPONDENT

Criminal Appeal No. 59-DB of 1998

The State of Punjab ....APPELLANTS

VERSUS

Pardeep Singh and another ....RESPONDENTS

Criminal Revision No. 946 of 1998

Kulbir Singh ....PETITIONER

VERSUS

Pardeep Singh and others ....
RESPONDENTS

Criminal Appeal No. 622-DB of 1997,
Criminal Appeal No. 59-DB of 1998 &
Criminal Revision No. 946 of 1998

CORAM: HON'BLE MR. JUSTICE MEHTAB S.GILL
HON'BLE MR. JUSTICE ARVIND KUMAR

Present:- Mr. Deepak Arora, Advocate
for appellant No.2.

Mr. Ramandeep Sandhu, D.A.G. Punjab.

Mr. K.K.Aggarwal, Senior Advocate with
Mr. Kapil Aggarwal, Advocate
for the complainant/petitioner.

MEHTAB S.GILL, J.

We shall be deciding Criminal Appeal No. 622-DB of 1997 filed by the appellants, Criminal Appeal No. 59-DB of 1998 filed by the State of Punjab for enhancement of sentence and Criminal Revision No. 946 of 1998 filed by the complainant Kulbir Singh, by a common judgment, as they arise out of a common order passed by the Sessions Judge, Sangrur dated 12.8.1997.

The learned trial Court convicted Pardeep Singh alias Pardeep Kumar alias Deepa son of Muni Lal and Bhan Singh son of Mukhtiar Singh under Sections 302/376 read with Section 34 IPC. He sentenced them to undergo life imprisonment under Section 302 IPC and seven years RI under Section 376 IPC and pay a fine of Rs.10,000/- and Rs.5,000/-. In

default of payment of fine, further to undergo RI for one year. The sentences were ordered to run concurrently.

Learned counsel for the appellant has stated, that Pardeep Singh alias Pardeep Kumar alias Deepa died after filing of the appeal in this Court. Appeal against him has thus abated. We are left with the appeal of only Bhan Singh son of Mukhtiar Singh.

The case of the prosecution is unfolded by the statement Ex.PK of Kulbir Singh given to SI/SHO Ashok Mohan at Civil Hospital, Sangrur on 20.7.1993 at 11.15 p.m.

Kulbir Singh stated that he is a resident of village Kamommajra Kalan and do agricultural work. On 20.7.1993 his sister Jaswinder Kaur and her son Maninderjit Singh about 11 years, resident of Bakhshiwala had come to meet them. At about 3.00 p.m. his sister's son Maninderjit Singh and his daughter Manpreet Kaur aged 10 years went out to collect Jamun fruit from the Baghwala field. They did not return till 7.00 p.m. Kulbir Singh along with his uncle Satnam Singh went in search of both the children towards the Baghwala field. They heard shrieks of the children from sugarcane field belonged to Kulbir Singh. Both Kulbir Singh and Satnam Singh rushed towards the sugarcane field and they saw that Pardeep Singh @ Deepa son of Muni Lal strangulating Manpreet Kaur and Bhan Singh son of Mukhtiar Singh strangulating Maninderjit Singh. They raised an alarm not to kill the children. Both Pardeep Singh and Bhan Singh then ran away. Kulbir Singh and Satnam Singh started taking care of the children. Kulbir Singh saw that Salwar of his daughter was

loose and stained with blood. Rape had been committed on his daughter. Maninderjit Singh expired within their sight. After leaving Satnam Singh nearby the dead body, Kulbir Singh took his daughter Manpreet Kaur, who was struggling for life, to the Civil Hospital, Sangrur for treatment. Doctor declared her dead when she reached there.

On the basis of this statement, FIR Ex.PK/2 was recorded on 21.7.1993 at 12.10 a.m. and the special report reached the J.M.I.C., Sangrur on the same day at 7.30 a.m.

The prosecution to prove its case brought into the witness box Dr. S.K.Bansal as PW1, Dr. Suresh Kumar Goyal as PW2, Ajit Singh Head Teacher as PW3, Jaspal Kumar Patwari as PW4, Constable Om Parkash as PW5, Kulbir Singh as PW6, Satnam Singh as PW7, Shri J.S.Bhinder Civil Judge (Jr.Divn.)-cum-JMIC Rajpura as PW8, Gurmeet Singh SI Finger Expert as PW9, HC Baljit Singh as PW10, Dr. Surjit Singh as PW11, ASI Lachhman Dass as PW12, SI Ashok Mohan as PW13, Constable Rajinder Singh as PW14 and HC Surinder Kumar as PW15.

Learned counsel for the appellant has argued, that there is no evidence of appellant Bhan Singh having caused the murder of Maninderjit Singh and the rape and murder of Manpreet Kaur. Appellant was working as a servant with Kulbir Singh PW6, the father of deceased Manpreet Kaur. He could not have done such an act. The finger marks taken and the report of the Finger Expert Ex.PS is a false story built up by the Investigating agency. The glass could not have been recovered from the fields where a lot of people had come. The unexplained delay in lodging

of the FIR clearly shows that the appellant was falsely implicated for the reasons that Kulbir Singh PW6 was demanding Rs.10,000/- from the appellant, as allegedly he owed this amount to Kulbir Singh PW6. The eye witness account as spelt out by Kulbir Singh PW6 and Satnam Singh PW7 does not inspire confidence. The murder of Maninderjit Singh and the murder and rape of Manpreet Kaur had taken place in a sugarcane field. As stated by both the witnesses, they reached the place of occurrence after hearing the shrieks, but as they reached, they saw that Maninderjit Singh had died and Manpreet Kaur was in such a state where she could not speak. The distance between the house of Kulbir Singh PW6 and the field is only a few acres. Somebody else committed the murder of the deceased and appellant was later on falsely implicated.

Lastly, learned counsel has argued, that appellant Bhan Singh has undergone more than 13 years of sentence and relied upon the judgment of Hon'ble Supreme Court in **State of M.P. through C.B.I. Versus Paltan Mallah, 2005(1) RCR (Crl.) 949 ,** wherein the Hon'ble Supreme Court has held as under: -

> "The incident leading to these appeals had taken place as early as 1991. As there is a long lapse of time, we do not think that the sentence of death imposed upon him by the Sessions Court is justified in the circumstances. We set aside the acquittal of respondent-accused Paltan Mallah and find him guilty of the offence punishable under Section 302 IPC and sentence him to undergo imprisonment for life".

Learned counsel for the State has argued, that both Kulbir Singh PW6 and Satnam Singh PW7 have stated in unequivocal terms regarding the commission of the offence. They both saw the appellant coming out from the fields. His name figures in the FIR. Appellant is no other person than the servant of Kulbir Singh PW6. The medical evidence has corroborated the ocular account. The two shirts recovered, the foot moulds of the appellant in the report of the Forensic Science Laboratory Ex.PMM and Ex.PNN matched that of the appellant. Sh. J.S.Bhinder PW8 who has come into the witness box, has stated, that it took the foot moulds and finger-prints of the appellant as per law. As per the medical examination report Ex.PLL, semen was found on the underwear of the appellant and there was blood stains on the clothes of deceased Manpreet Kaur.

There is no delay in lodging of the FIR. Occurrence had taken place on 20.7.1993 at 7.00 p.m. The FIR Ex.PK/2 came into existence on 21.7.1993 at 12.10 a.m. The special report reached the Ilaqa Magistrate, Sangrur on the same day at 7.30 a.m. The name of the appellant is given. The nature of the offence is given. Sequence of events that Manpreet Kaur was taken to the Hospital is also given.

We have heard the learned counsel for the parties and perused the record with their assistance.

A barbaric act has been committed by the appellant, who was a servant of Kulbir Singh PW6, along with Pardeep Singh (since dead) by committing the murder of Maninderjit Singh and the rape and murder of

Manpreet Kaur. On 20.7.1993 both deceased Manpreet Kaur and Maninderjit Singh, who had come to Kulbir Singh PW6 (being his real uncle) left for the fields to pluck Jamun fruit at 4.00/5.00 p.m. Deceased Maninderjit Singh was 10-11 years old and Manpreet Kaur was 9-10 years old. As they did not return till 7.00 p.m., both Kulbir Singh PW6 and Satnam Singh PW7 went out in search of them. They heard their shrieks from the sugarcane field. They saw Pardeep Singh appellant (since dead) strangulating Manpreet Kaur and appellant Bhan Singh strangulating Maninderjit Singh. On seeing them, both appellant and his co-accused ran away. When they reached near the place of occurrence, they saw salwar of Manpreet Kaur was loose and stained with blood. She was struggling for life. Maninderjit Singh died within their sight. Manpreet Kaur was taken to Civil Hospital, Sangrur, but the doctor declared her dead. Kulbir Singh PW6 has stated, that the place of occurrence was 4 killas (acres) away from the village phirni (outer circle). The sugarcane crop was 3-4 feet high. When he lifted Manpreet Kaur, he saw marks on her neck. There were teeth bite marks on her face. The private parts of deceased Manpreet Kaur were bleeding. Similar is the statement of Satnam Singh PW7. Both these witnesses corroborated each other inter-se and also give corroboration to FIR Ex.PK/2.

Dr. Suresh Kumar Goyal PW2, who performed the postmortem on the body of both Maninderjit Singh and Manpreet Kaur has stated, that there was reddish contusion on the front of thyroid cartilage of Maninderjit Singh. Ribs were fractured. Liver was badly lacerated. The

cause of death was these injuries. It is clear from these injuries that Maninderjit Singh was strangulated and also given severe fist blows by the appellant and his co-accused Pardeep Singh @ Deepa (since dead). He (PW2) has further stated, that there were teeth bite marks on the cheeks of Manpreet Kaur. Bruises were present on both thighs, eyes, cheek and hands of Manpreet Kaur. Salwar nala was broken. Finger marks were present on the front of neck. On examining the genital organs, he found the hymen ruptured. Uterus was ruptured. He has further stated, that the injury on the genital organs could be the result of forcible sexual intercourse. Both the little children Maninderjit Singh being 11 years and Manpreet Kaur 10 years of age were given brutal fist blows by the appellant and his co-accused Pardeep Singh (since dead), who were physically strong being farm labourers. Deceased Manpreet Kaur was not only raped, but like animals she was brutally beaten on her neck and face by the appellant and his co-accused. The medical evidence corroborates the ocular account.

There is no delay in lodging of the FIR. The occurrence had taken place on 20.7.1993 at 7.00 p.m. Statement Ex.PK of Kulbir Singh PW6 was recorded at Civil Hospital, Sangrur by SI/SHO Ashok Mohan PW13 at 11.15 p.m. FIR Ex.PK/2 came into existence at 12.10 a.m. on 21.7.1993 and the special report reached the J.M.I.C., Sangrur on the same day at 7.30 a.m. The occurrence had taken place in the night and all the proceedings regarding the FIR Ex.PK/2 coming into existence, inquest reports Ex.PD and Ex.PF prepared and the special report reaching the

JMIC, Sangrur were done at the night time. The name of the accused and the nature of the crime committed find mention. The complainant party could not go to the police station, as firstly they wanted to save the life of Manpreet Kaur. It is thereafter ruqa was sent from the Civil Hospital, Sangrur that the police came into action.

In support of his argument, learned counsel for the appellant has relied upon the judgment of Hon'ble Supreme Court in **State of M.P.**'s case (supra). Though the appellant has committed a diabolic and barbaric act unbecoming of a human being, but since he has already undergone more than 13 years of sentence and his co-accused Pardeep Singh @ Deepa committed suicide in jail during the pendency of the appeal, we would not like to take a harsh view on the appellant by imposing the penalty of death. Conviction of the appellant shall stand intact as already imposed by the learned trial Court. But seeing the nature of the crime, we are relying upon the judgment of Hon'ble Supreme Court in **Parkash Dhawal Khairnar (Patil) Versus State of Maharashtra, (2002) 2 Supreme Court Cases 35**, wherein the Hon'ble Supreme Court held that while converting the death sentence into life imprisonment, the accused shall not be released unless he has served 20 years of actual imprisonment including the period already undergone by him.

In the case in hand and relying upon the judgment of the Hon'ble Supreme Court in **Parkash Dhawal Khairnar**'s case (supra), appellant is sentenced to undergo life imprisonment for the murder of Maninderjit Singh and Manpreet Kaur. Appellant shall not be released

unless he serves 20 years of actual imprisonment/sentence including the period already undergone by him.

With the above modification in the sentence, Criminal Appeal No.622-DB of 1997 is dismissed.

Criminal Appeal No.59-DB of 1998 is partly accepted to the extent stated above.

Criminal Revision No.946 of 1998 is also disposed of.

(MEHTAB S.GILL)
JUDGE

(ARVIND KUMAR)
JUDGE

February 6, 2007
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WHETHER TO BE REFERRED TO REPORTER? YES/NO